

REMARKS/ARGUMENTS

The Applicants originally submitted Claims 1-20 in the application. In the present response, the Applicants have canceled Claims 15-20 without prejudice or disclaimer and have added Claims 21-26. Accordingly, Claims 1-14 and 21-26 are currently pending in the application. Support for the amendment can be found, for example, in Figure 5 and page 10, line 3, to page 11, line 5, of the original specification.

I. Rejection of Claims 1, 2, 5 and 7 under 35 U.S.C. §103

The Examiner has rejected Claims 1, 2, 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0041695 to Bordogna, *et al.* in view of U.S. Patent No. 6,741,566 to Furlong, *et al.* The Applicants respectfully disagree.

The Examiner asserts Bordogna fails to teach an Interpacket gap including at least one non-Idle symbol such that the presence of the non-Idle symbol is part of a message. To cure this deficiency, the Examiner cites Figure 2, element 70 and column 2, lines 65-67, of Furlong. (*See* Examiner's Action, page 3.) The management side channel frame 70, however, includes data that is denoted by a start of frame delimiter byte and an end of frame delimiter byte. (*See* Figure 2 and column 2, line 65, to column 3, line 3.) Thus, the data in the management side channel frame 70 is set aside in the Interpacket gap as data and there is no weight given to the **presence** of the data in the Interpacket gap as being part of a message.

As such, the cited combination of Bordogna and Furlong fails to provide a *prima facie* case of obviousness of independent Claim 1 by failing to teach or suggest "wherein said Interpacket gap

includes at least one non-Idle symbol such that the presence of said non-Idle symbol is part of a message.” The Applicants, therefore, respectfully request the Examiner to withdraw the §103(a) of independent Claim 1 and Claims 2, 5 and 7 which depend thereon. Additionally, the Applicants respectfully request issuance of Claims 1, 2, 5 and 7.

II. Rejection of Claims 3 and 4 under 35 U.S.C. §103

The Examiner has rejected Claims 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of Furlong and in further view of U.S. Application Publication No. 2003/0227947 by Shin, *et al.* The Applicants respectfully disagree.

As asserted above, the cited combination of Bordogna and Furlong does not teach or suggest each element of independent Claim 1. Shin has not been cited to cure the noted deficiencies of Bordogna and Furlong but to teach the additional limitations of Claims 3 and 4. (*See* Examiner's Action, page 4.) The applied combination of Bordogna and Furlong with Shin, therefore, does not provide a *prima facie* case of obviousness of independent Claim 1 and Claims 3-4 which depend thereon. The Applicants, therefore, respectfully request the Examiner to withdraw the §103(a) rejection of dependent Claims 3-4 and allow issuance thereof.

III. Rejection of Claim 6 under 35 U.S.C. §103

The Examiner has rejected Claim 6 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of Furlong, and further in view of U.S. Patent Application Publication No. 2003/0137975 to Song, *et al.* The Applicants respectfully disagree.

As asserted above, the cited combination of Bordogna and Furlong does not teach or suggest each element of independent Claim 1. Song has not been cited to cure the noted deficiencies of Bordogna and Furlong but to teach the additional limitation of Claim 6. (See Examiner's Action, page 5.) The applied combination of Bordogna and Furlong with Song, therefore, does not provide a *prima facie* case of obviousness of independent Claim 1 and Claim 6 which depends thereon. The Applicants, therefore, respectfully request the Examiner to withdraw the §103(a) rejection of dependent Claim 6 and allow issuance thereof.

IV. Rejection of Claim 8 under 35 U.S.C. §103

The Examiner has rejected Claim 8 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of U.S. Patent No. 6,085,248 to Sambamurthy, *et al.* The Applicants respectfully disagree.

The Examiner asserts Bordogna fails to teach a packet that includes a plurality of non-standard symbols as part of a message. To cure this deficiency of Bordogna, the Examiner relies on column 20, lines 43-67 of Sambamurthy. (See Examiner's Action, page 6.) The cited section of Sambamurthy, however, discloses injecting symbols **between** packets. (See column 20, lines 43-47. Emphasis added.) Thus, the Applicants fail to see where the cited section of Sambamurthy teaches or suggests a packet that includes "a plurality of non-standard symbols as part of a message" as recited in independent Claim 8.

As such, the cited combination of Bordogna and Sambamurthy fails to provide a *prima facie* case of obviousness of independent Claim 8. The Applicants, therefore, respectfully request the Examiner to withdraw the §103(a) rejection of independent Claim 8 and allow issuance thereof.

V. Rejection of Claims 9-14 under 35 U.S.C. §103

The Examiner has rejected dependent Claims 9-14 under 35 U.S.C. §103(a) as being unpatentable over Bordogna in view of Sambamurthy, and further in view of: U.S. Patent Application Publication No. 2003/0235214 to Leroux, *et al.*, for Claims 9-10 and 13; Leroux, and further in view of Shin for Claims 11 and 12; and Leroux, and further in view of Song for Claim 14. The Applicants respectfully disagree.

As asserted above, the cited combination of Bordogna and Sambamurthy does not teach or suggest each element of independent Claim 8. The other cited references noted above, Leroux, Shin and Song, have not been cited to cure the noted deficiencies of Bordogna and Sambamurthy but to teach the additional limitations of the above dependent Claims. (See Examiner's Action, pages 7-9.) Thus, the applied combination of Bordogna and Sambamurthy with Leroux, Shin, Song or a combination thereof, does not provide a *prima facie* case of obviousness of independent Claim 8 and, therefore, Claims 9-14 which depend thereon. The Applicants, therefore, respectfully request the Examiner to withdraw the §103(a) rejection of dependent Claims 9-14 and allow issuance thereof.

VI. Rejection of Claims 15-20 under 35 U.S.C. §103

The Examiner has rejected Claims 15-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0034729 to Azadet in view of Furlong. The rejection is now moot since Claims 15-20 have been canceled without prejudice or disclaimer. As such, the Applicants respectfully request the Examiner to withdraw this §103(a) rejection.

VII. Comment on New Claims

Claims 21-26 have been added in the present response. The Applicants do not find where the applied references disclose an apparatus including a transmitter with an encoder configured to substitute at least one message symbol for one of the symbols decoded as an Idle symbol in an interpacket gap to encode at least a portion of a message into the interpacket gap. More specifically, the Applicants do not find in the applied references such an encoder *wherein the at least one message symbol is decoded as an Idle symbol*. Accordingly, the Applicants respectfully request the Examiner allow issuance of Claims 21-26.

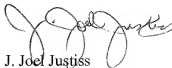
VIII. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-14 and 21-26.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC

A handwritten signature in black ink, appearing to read "J. Joel Justiss", with a stylized flourish extending to the right.

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Dated: September 14, 2007

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